



STATE OF NEW JERSEY

In the Matters of Andre Mitchell,
County Correction Officer (S9999U),
Union County

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2019-1003

List Removal Appeal

ISSUED: MARCH 8, 2019 (SLK)

Andre Mitchell, represented by Wilfredo Benitez, Esq., appeals his removal from the eligible list for County Correction Officer (S9999U), Union County on the basis that he possessed an unsatisfactory driving record.

The appellant took the open competitive examination for County Correction Officer (S9999U), achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant possessed an unsatisfactory driving history.

On appeal, the appellant presents that his driver's license is currently in good standing. He asserts that his driver's license was erroneously suspended in 1999 for a timely paid parking ticket where the municipality mistakenly input the payment as being late. The appellant attaches documentation to show that he timely paid the ticket. He submits his certified driver's abstract to show that it only contains two minor moving violations, a 1996 failure to obey directional signal and a 2007 obstructing passage of other vehicle. Additionally, the abstract shows other violations that carried no points. The appellant asserts that although he received a motor vehicle violation in February 2018 for unclear plates, he denies that his plates were unclear, but explains he did not fight this charge due to work obligations and the violation did not carry points. The appellant argues that none of his offenses were serious. Therefore, he believes that none of these motor vehicle violations should be grounds to remove him from the list.

In response, the appointing authority submits its background report that revealed the that appellant failed to appear in court 11 times. Specifically, the report indicates that the appellant failed to appear in court on March 2, 2018 for an improper display/unclear plates violation and failed to appear in court on October 14, 2011, July 2, 2013, September 5, 2013, December 3, 2013, August 12, 2014, September 3, 2014, May 5, 2015, February 12, 2016, September 9, 2016, and February 21, 2018 for parking violations.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Civil Service Commission (Commission) to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment. The Commission has the authority to remove candidates from lists for law enforcement titles based on their driving records since certain motor vehicle violations reflect a disregard for the law and are incompatible with the duties of a law enforcement officer. *See In the Matter of Pedro Rosado v. City of Newark*, Docket No. A-4129-01T1 (App. Div. June 6, 2003); *In the Matter of Yolanda Colson*, Docket No. A-5590-00T3 (App. Div. June 6, 2002); *Brendan W. Joy v. City of Bayonne Police Department*, Docket No. A-6940-96TE (App. Div. June 19, 1998).

N.J.A.C. 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

In this matter, the appointing authority had valid reasons for removing the appellant's name from the list. Specifically, between October 2011 and March 2018, the appellant failed to appear in court for non-moving motor vehicle violations 11 times, which includes three failures to appear after the August 31, 2016 closing date for the subject examination. The appellant's ability to drive a vehicle in a safe manner is not the main issue in determining whether or not he should remain eligible to be a County Correction Officer. These motor vehicle violations and subsequent failures to appear in court evidence disregard for the motor vehicle laws, the judicial system and demonstrate the exercise of poor judgment. The appellant has offered no substantive explanation for these infractions and his subsequent failures to appear in court. It is clear that the appellant's actions show a pattern of disregard for the law and questionable judgment. Such qualities are unacceptable for an individual seeking a position as a law enforcement officer. *See Moorestown v. Armstrong*, 89 *N.J. Super.* 560, 566 (App. Div. 1965), *cert. denied*, 47 *N.J.* 80 (1966). *See also In re Phillips*, 117 *N.J.* 567 (1990).

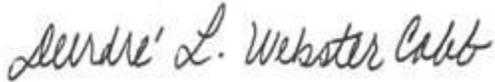
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the County Correction Officer (S9999U), Union County eligible list.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 6th DAY OF MARCH, 2019



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